

Robert J. Tolchin

From: Hill, Brian <BHill@milchev.com>
Sent: Thursday, September 13, 2012 3:27 PM
To: Robert Tolchin
Cc: Rochon, Mark; Hibey, Richard; dschoen593; hallermm@gmail.com
Subject: RE: Sokolow

Bob,

I have not received any additional information about "the list" referenced in the email chain below since my email of September 10, 2012 at 4:54 PM, and the weekend has now begun in the Middle East.

I will try and obtain additional information about this document and respond to your email next week.

I also do not believe you have produced a copy of what your email describes as "Dr. Banat's doctoral dissertation about Palestinian suicide bombers, which discusses, inter alia, Idris, Jaraa and Hashaika." If that document is responsive to any of our outstanding discovery requests in this matter, please produce it as required by Rule 26(e)(1)(A).

For the record, we will oppose any request for sanctions.

Regards,

Brian A. Hill
Miller & Chevalier Chartered
655 Fifteenth Street, N.W. Suite 900
Washington, DC 20005-5701
Business: (202) 626-6014
Facsimile: (202) 626-5801

From: Robert Tolchin [<mailto:rjt.berkman@gmail.com>]
Sent: Thursday, September 13, 2012 12:10 PM
To: Hill, Brian
Cc: Rochon, Mark; Hibey, Richard; dschoen593; hallermm@gmail.com
Subject: Re: Sokolow

Brian -

The list is obviously in the possession of the PA because, as the attachment I sent you shows, it was prepared by the PA in 2008. If you are claiming that it is no longer in the PA's custody please say so, and we'll deal with this as a spoliation issue. There is no question that the list references Wafa Idris, Ali Jaraa and Mohammed Hashaika, both because they are included in the category by definition, and because the list was used as the basis for Dr. Banat's doctoral dissertation about Palestinian suicide bombers, which discusses, inter alia, Idris, Jaraa and

Hashaika. Accordingly, and in the absence of any substantive response, we intend to move for appropriate sanctions. Please let me know if you will oppose that relief.

- Bob

On Mon, Sep 10, 2012 at 4:54 PM, Hill, Brian <BHill@milchev.com> wrote:

Bob,

I write in response to your email below.

I have never seen what you describe as the "[t]he PA-generated list of 'Palestinian Martyrs' mentioned in the" attachment to your email below.

I have no idea if, as you claim, "that list references Wafa Idris, Ali Jaraa and Mohammed Hashaika," is "responsive to several of the *Sokolow* plaintiffs' requests for production," or even if it is in the possession, custody or control of either of my clients.

Having first learned of the alleged existence of "that 2008 list" earlier today, I can only say that I and my colleagues understand our obligations under the Federal Rules of Civil Procedure and will look into the issue and respond in accordance with our obligations under those rules. I doubt, however, that we will be in a position to do so in the next 72 hours as you request.

For the record, it is our position that, contrary to the assertions in your email, "Defendants and their counsel" are neither in "in clear breach of their discovery obligations and of Rule 26(g)" or engaged in "blatant misconduct."

Finally, I request, as I have on several prior occasions, that you please refrain from directing *ad hominem* attacks at myself, my colleagues or my clients. It is unprofessional, unnecessary, and adds nothing useful to the discovery process.

Regards,

Brian A. Hill
Miller & Chevalier Chartered
655 Fifteenth Street, N.W. Suite 900
Washington, DC 20005-5701
Business: [\(202\) 626-6014](tel:(202)626-6014)
Facsimile: [\(202\) 626-5801](tel:(202)626-5801)

From: Robert Tolchin [mailto:rjt.berkman@gmail.com]
Sent: Monday, September 10, 2012 1:33 PM
To: Hill, Brian
Cc: Rochon, Mark; Hibey, Richard; dschoen593; hallermmm@gmail.com
Subject: Sokolow

Counselors -

The PA-generated list of "Palestinian Martyrs" mentioned in the attached 2008 letter is responsive to several of the *Sokolow* plaintiffs' requests for production, because, *inter alia*, that list references Wafa Idris, Ali Jaraa and Mohammed Hashaika. Defendants and their counsel have not produced that 2008 list and are therefore in clear breach of their discovery obligations and of Rule 26(g). Without derogating from plaintiffs' right to seek any appropriate remedies for this blatant misconduct, we request that you inform us by close of business today whether you will produce a copy of the list without judicial compulsion by September 13, 2012.

- Bob Tolchin